

NEVADA DEPARTMENT OF CORRECTIONS	SERIES 300 PERSONNEL	SUPERSEDES: NEW
ADMINISTRATIVE REGULATIONS MANUAL	ADMINISTRATIVE REGULATION 340 EMPLOYEE COMPLAINT REPORTING AND INVESTIGATION TEMP	EFFECTIVE DATE: 08/25/03

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PURPOSE

To establish and standardize a procedure for accepting, classifying, and reporting complaints made to the Department regarding allegations of employee misconduct.

To identify and set requirements regarding an employee's obligation and duties to promptly and accurately report and process allegations of misconduct.

To establish and standardize a procedure for the conduct of formal investigations of complaints or allegations of employee misconduct.

AUTHORITY

NRS 119.325

RESPONSIBILITY

This regulation applies to all employees of the Nevada Department of Corrections.

It is the responsibility of the Inspector General to oversee investigative activities within the Nevada Department of Corrections.

DEFINITIONS

ADMINISTRATIVE INVESTIGATION –A formalized process regarding a complaint of employee misconduct.

APPOINTING AUTHORITIES – Individuals to whom the Director has delegated authority to recommend and implement personnel actions. Appointing authorities may include Assistant Directors, Medical Director, Wardens, and Administrator Mental Health and Programs Services.

ASSISTANT DIRECTORS - Positions specified as such in the State Department of Personnel Classification Plan, e.g., Operations, Prison Industries, Support Services.

ASSOCIATE WARDEN - An assistant administrative officer in charge of “Operations” or “Programs” within an institution of the Department.

CAUSES FOR CORRECTIVE/DISCIPLINARY ACTION - Any act of misconduct.

COMPLAINANT – The individual person that reports an allegation of misconduct to the Department regarding any of its employees.

COMPLAINT – Any allegation, complaint, or grievance, anonymous, identified, or made through a third party regarding employee misconduct or poor performance.

COMPLAINT CATEGORIES – Complaints are classified into one of three categories defined as follows:

- Category 1
 - Illegal conduct.
 - Unauthorized or excessive use of force, abuse of authority, neglect of duty, violation of rights, or workplace violence.
 - Insubordination or dishonesty.
 - Conduct that compromises or has the potential to compromise an employee’s ability to perform their duties or to provide service impartially.
 - Discriminatory or harassing conduct, comments, remarks or behavior.
 - Significant noncompliance, failure to comply, or disregard of Federal, State, or Departmental guidelines, policies, procedures, recognized agreements, rules, regulations, or directives.
- Category 2
 - Making discourteous, disparaging, or improper remarks or the spreading of malicious rumors that are disruptive to the Department, its staff and employees.

- Minor noncompliance or failure to comply or disregard of Federal, State, or Department guidelines, policies, procedures, recognized agreements, rules, regulations or directives.
- Allegation of poor or less than standard performance involving misconduct that may or may not require an interview, an investigation, or gathering and securing evidence that when completed may result in corrective or disciplinary action up to and including termination or the filing of criminal charges.
- Conduct that is unbecoming or discredits the Department.
- Category 3
 - Noncompliance, failure, or disregard of Department guidelines, policies, procedures, recognized agreements, rules or directives that do not rise to the level of a Category 1 or 2 complaint.
 - Conduct that may tend to reflect unfavorably upon the employee or the Department.
 - Any allegation that does not rise to the level of a Category 1 or 2 misconduct.

COMPLAINT CLASSIFICATION – The evaluation and placement of complaints into one of three categories to ensure investigation at the appropriate level.

CRIMINAL INVESTIGATION – A formalized process regarding a complaint of employee misconduct that alleges a violation of law.

DEPARTMENT - The Nevada Department of Corrections (NDOC)

DIRECTOR - The Director of the Nevada Department of Corrections.

DIVISION HEADS – Those individuals responsible for the major divisions of the Department; such as Personnel, EEO/Professional Development, Inmates Services, Fiscal, Inspector Generals Office, Procurement, Accounting, Offender Management, Stores, Medical.

EMPLOYEE - A person legally holding a position with the Department in public service as defined in NRS 284.015.

INVESTIGATION – The formal comprehensive process that involves, identification of involved parties, the gathering of facts, information or statements of the complainant, witnesses and involved parties and the securing and analyzing of evidence regarding the investigation of a complaint that has been assigned to an investigative body to prepare a final case report.

INSPECTOR GENERAL - The administrative officer in charge of the Department's Office of the Inspector General.

MISCONDUCT – Including, but not limited to violations of law, administrative code, regulation, policy, and/or procedure.

PEACE OFFICER – Positions designated pursuant to the definitions contained in, NRS 169.125; NRS 289.010; NRS 289.220; NRS 289.480; NAC 289.060, inclusive.

PRELIMINARY INQUIRY – The initial review, investigation, identification of involved parties, the gathering of facts, information and statements of the complainant, witnesses and involved parties and the securing of evidence regarding a complaint received by an employee and/or a supervisor that alleges employee misconduct.

RIGHTS OF A PEACE OFFICER - The rights afforded pursuant to NRS Chapter 289 (289.010 – 289.120).

SHIFT SUPERVISOR – An individual supervisory employee of the Department that is responsible for providing supervision to other supervisors and employees of an assigned shift or tour of duty within an institution, facility and/or office of the Department.

WARDEN - The administrative officer in charge of an institution of the Department.

APPLICABILITY

This Administrative Regulation applies to all employees of the Department of Corrections.

PROCEDURES

340.01 COMPLAINT REPORTING

1.1 The Department will accept all complaints and will perform thorough and impartial administrative, and when necessary, criminal investigations into allegations of employee misconduct.

1.2 Performance issues may be accepted and treated as a complaint for the purpose of investigation when the performance issue is first brought forward as a complaint of misconduct.

1.3 Complaints should be accepted from any source, or any medium, at any Department institution or facility by any employee. When available, a supervisor will be immediately notified and will accept the complaint on behalf of the Department.

1.4 Following the completion and submission of the Department Standardized Complaint Form (DOC-1064) to the Office of the Inspector General, (IG) all complaints regarding allegations of employee misconduct should be reviewed by the IG or designee and classified into one of the Complaint Categories. These categories will provide guidelines to ensure standardization, and investigation at the appropriate level.

1.5 When a complaint involves more than one allegation, the complaint shall be placed in the highest appropriate complaint category.

1.6 The complaint may be re-evaluated and placed in a different category at any point during or after an investigation.

1.7 Complaints of misconduct should be made, accepted, and recorded on the DOC-1064 complaint form.

1.8 The DOC-1064 should be prepared whenever an allegation of misconduct is made against an employee that, if sustained, would result in corrective or disciplinary action for the employee.

1.9 When an allegation is determined to be a complaint against Department policy or procedure and the matter cannot be explained to the reporting person's satisfaction, the person shall be referred to the appropriate division having jurisdiction over the subject in dispute.

1.10 When a complaint is received from a person who is intoxicated, the DOC-1064 should be completed. The complainant should be re-interviewed at the earliest opportunity after that person has regained sobriety.

1.11 All required information will be appropriately recorded on the DOC-1064. The "details of the complaint" portion of the form shall be used to document the preliminary inquiry and to record any preliminary observations made by the concerned supervisor regarding the matter. Any correspondence, statements, or claim of damages prepared or provided by the complainant should be attached to the DOC-1064.

1.12 Except in an emergency situation, inmates should initiate complaints using the inmate grievance procedure as outlined in AR 740. If upon review the grievance discloses an allegation of employee misconduct, the reviewing supervisor should complete a DOC-1064. A copy of the inmate's grievance should be attached to the DOC-1064.

1.13 If during the course of an emergency situation, an employee becomes aware of an allegation of employee misconduct, the employee should complete the DOC-1064 after controlling the emergency situation and notifying a supervisor.

1.14 If an employee records or takes a complaint from a source outside the Department, who is not an inmate, the employee should complete the DOC-1064 and provide the complainant with a copy when a complaint is made in person.

340.02 EMPLOYEE RESPONSIBILITY

1.1 When an employee who is not a supervisor becomes aware of an alleged act of misconduct, the employee shall immediately notify a supervisor. If no supervisor is available to accept the information, the employee should complete a DOC-1064 for subsequent transmittal to an available supervisor.

1.2 The receiving employee should document all preliminary information and attach any correspondence, documents, or related statements or claims for damages to the DOC-1064 and forward it to a supervisor.

1.3 When an employee takes, or is about to take, a complaint from a complainant and becomes aware that the allegation, or any part of the allegation involved, pertains to him, the employee shall immediately report to a supervisor.

1.3.1 If no supervisor is available to accept the information, the employee must refer the complainant to an employee who is not part of the complaint or allegation.

1.3.2 If the complaint or any of its allegations involve or pertain to the receiving employee's immediate supervisor, the employee is authorized to report the allegation to any supervisor for processing and transmittal to a Division Head.

1.4 Supervisor Responsibilities

1.4.1 When an immediate supervisor or any other supervisor of the Department becomes aware of an alleged act of employee misconduct, the supervisor shall take immediate and appropriate action to prevent aggravation of the incident.

1.4.2 The supervisor shall conduct a preliminary inquiry of all complaints when the matter becomes known to him. At a time when the complainant and any other involved party are initially interviewed, the supervisor shall:

1.4.2.1 Interview on tape and record the complainant and any other involved party. If the supervisor is unable to tape record the complainant, a note explaining why the complaint was not taped must be included in the narrative portion of the DOC-1064.

1.4.2.2 Document the complainant's statement and any other involved party's statement in the statement portion of the DOC-1064 and request that the complainant and each party sign and date the form.

- If the complainant or any other party refuses to sign the form, simply indicate, "refused to sign" in the signature space provided.
- When appropriate and possible, immediately present a copy of the completed statement to the complainant.

1.4.3 When circumstances preclude an in-person interview with the complainant or any other involved party, or when the complainant is anonymous, the supervisor shall, if possible, conduct the interview by phone.

1.4.3.1 This conversation should be tape recorded if the complainant or involved party gives their consent.

1.4.3.2 Upon receiving consent to tape record the conversation, the supervisor shall sign the form and read to the person being interviewed, the information contained in the DOC-1064.

1.4.3.3 The supervisor shall print the name of the person being interviewed if known, or “anonymous” if unknown on the appropriate line and indicate “telephonic” in place of the signature of the person being interviewed.

1.4.3.4 If consent to tape record the conversation is not granted by the person who is to be interviewed, the supervisor shall appropriately mark or complete the document then proceed without tape recording the conversation.

1.4.3.5 As an alternative to tape recording the conversation can be witnessed by another supervisor while it is being conducted over an audible speakerphone.

1.4.4 The supervisor should document the preliminary inquiry, interviews, explanations made, and actions taken in any responses made by the complainant on the DOC-1064 and attach to the form any correspondence, documents or related statements or claims, for damages obtained during the preliminary inquiry.

1.4.5 The supervisors shall immediately forward, through his chain of command, the completed DOC-1064 and attachments to his Division Head.

1.4.5.1 When the complaint concerns a supervisor within the chain of command of the receiving supervisor, the receiving supervisor may go directly to the Division Head.

1.4.5.2 When the complaint concerns the receiving supervisor’s Division Head, the receiving supervisor shall report the matter to an appointing authority for review and transmittal to an appropriate Division Head.

1.4.6 When the complaint is of a nature that the integrity of the investigation might be jeopardized by reducing the matter to writing, the supervisors are to verbally report through the chain of command to the Division Head and verbally report to the IG.

1.5 Division Head Responsibility

1.5.1 The primary responsibility for ensuring that complaint allegations are investigated rest with each Division Head who becomes aware of the complaint or allegation of employee misconduct.

1.5.2 Upon becoming aware of an allegation of misconduct, the Division Head shall take immediate and appropriate action to prevent aggravation of the incident.

1.5.3 After taking action to prevent aggravation of the incident, the Division Head shall verbally, and in writing, make the appointing authority aware the complaint, its status for completion of the preliminary inquiry, and forward the DOC-1064 to the IG for case review, complaint classification, and investigative assignment.

1.5.4 When it becomes necessary for a Division Head to conduct a preliminary inquiry, at a time when the complainant or any other involved party is initially interviewed, the Division Head or designee shall conduct that inquiry per the requirements of 340.02, 1.4.2 through 1.4.4.

1.5.5 The Division Head shall ensure that appropriate supervision, staff and resources are assigned to the matter and that established procedures and requisite admonishments are being followed and given to complete the preliminary inquiry and the DOC-1064 within acceptable timeframes.

1.5.5.1 If the Division Head concurs or finds that an investigation of a complaint or any of its allegations would be jeopardized by reducing the matter to writing, the Division Head shall make their report and referral to the IG orally.

1.5.5.2 If the Division Head does not concur, or finds that an inquiry of the matter would not be jeopardized by reducing it to writing they shall direct or cause the preliminary investigation and the DOC-1064 to be documented and submitted for review and subsequent transmittal to the office of the IG for consideration, complaint classification and investigative case tracking and assignment.

1.5.5.3 If the Division Head is unsure, the IG should be consulted before causing the matter to be documented.

1.5.5.4 Upon receiving a DOC-1064 from an employee or supervisor the Division Head shall review the document and matter for accuracy of content and process and cause to be corrected or completed anything that is in error or incomplete.

1.5.5.5 Following this effort the Division Head should forward the DOC-1064 and any of its related attachments to the IG for review, complaint classification and investigate case tracking and assignment.

1.6 Inspector General Responsibility

1.6.1 The IG is required to publish and maintain investigation guidelines to be used in the implementation of this regulation.

1.6.2 Upon becoming aware of an allegation of misconduct, the IG shall take immediate and appropriate action to prevent aggravation of the incident.

1.6.3 After taking appropriate action to prevent aggravation of the incident, the IG shall verbally or in writing make the Director and appropriate appointing authority aware of the complaint, its allegations, and status toward the completion of the preliminary investigation.

1.6.4 When it becomes necessary for the IG to conduct a preliminary investigation at a time when the complainant or any other involved party is initially interviewed the IG shall conduct the interview per the requirements of 340.02, 1.5 through 1.7.

1.6.5 Upon receiving a completed DOC-1064 from within the IG or from a Division Head, the IG shall review it for the purposes of determining the complaint classification and assignment of a case number.

1.6.5.1 Upon receiving an oral complaint or allegation of employee misconduct from a Division Head who believes that investigation might be jeopardized by reducing the matter to writing, the IG, after considering the matter and upon concurring with the Division Head's assessment, should continue with the requirements of this regulation without the DOC-1064.

1.6.5.2 If the IG does not agree, he should direct the Division Head to cause the matter to be documented on a DOC-1064 and submitted to the IG.

1.6.5.3 Upon determining a complaint classification and assigning a case number, the IG should review the complaint to determine the appropriate investigative body to handle the investigation. (IG; Attorney General; concerned Division Head; Nevada Division of Investigation; or local law enforcement).

1.6.5.4 The IG should assign the complaint to the appropriate investigative body for investigation and advise the Director and appropriate appointing authority of the status, investigative assignment, and expected time of completion.

1.6.5.5 Except in instances where the complainant is an inmate, the IG should, without undue delay and by “certified mail”, send the complainant an acknowledgement letter containing the complaint or investigative case number and details as to how and where the complaint may make subsequent inquiries regarding the matter.

1.6.5.6 For tracking and archival purposes, the IG should maintain a file of copies of all DOC-1064’s and related attachments associated with the complaint and maintain copies of any other forms or documents that are received or forwarded concerning the complaint.

1.7 Director or Appointing Authority Responsibilities

1.7.1 Upon becoming aware of an allegation of misconduct the Director or appointing authority shall take immediate an appropriate action to prevent aggravation of the incident.

1.7.2 After taking appropriate action to prevent aggravation of the incident, the Director or appointing authority should obtain the complainant’s information and assign the matter to an appropriate Division Head for the completion of a DOC-1064, conducting the preliminary inquiry, and forwarding this document to the IG.

1.7.3 Upon receiving a complaint or allegation of misconduct regarding a Division Head the appointing authority should review the matter, inform the Director, and when appropriate, inform the Division Head that a complaint has been received and advise of any administrative actions that are immediately necessary. The appointing authority shall forward the complaint and its associated documents to the IG.

340.03 EMPLOYEE COMPLAINT INVESTIGATIONS

1.1 All complaints regarding allegations of employee misconduct are to be sent to the IG for review, Complaint Category classification, assignment to the appropriate investigative body, and tracking.

1.2 Complaints assigned from the IG to a Division Head are the responsibility of the Division Head for the completion of the formal investigation.

1.3 The IG conducts the formal investigation on all Category One complaints and any Category Two complaints that it determines appropriate.

1.3.1 Remaining Category Two complaints, all Category Three complaints and instances of poor or less than standard performance that do not contain an element of misconduct, should be referred to a Division Head for formal investigation.

1.3.2 Instances of poor or less than standard performance that contain an element of misconduct should be reviewed by the IG on a case by case basis and subsequently assigned to the appropriate investigative body.

1.4 Formal investigations should be accomplished in accordance with established and published guidelines from the IG.

1.4.1 When it becomes necessary to conduct parallel Administrative and Criminal investigations regarding a complaint of employee misconduct, the IG will use independent investigators to conduct the separate investigations. Each investigation should be conducted separate and apart from the other.

1.4.2 Whenever an investigation points to or yields evidence of possible criminal misconduct by an employee or others, the Division Head assigned the investigation should immediately notify the IG.

1.4.2.1 The IG should review the matter and if necessary, reclassify it and conduct the formal investigation from his office.

1.4.2.2 If the IG does not agree with an assessment of a criminal violation, he should direct the Division Head to complete the formal investigation.

1.4.3 Any employee who is the focus or subject of a formal investigation should be afforded all rights and protections provided by law, regulation, and directives of the Department.

1.4.3.1 After review by the IG and within a reasonable time before interrogating or interviewing an employee regarding an investigation that could lead to punitive action against the employee the Division Head should ensure that written notice concerning the investigation is provided to the concerned employee. This notice shall include:

- A description of the nature of the investigation,
- A summary of alleged misconduct of the employee,
- The date, time, or place of the interrogation or interview,
- The name, title, rank of the person in charge of the investigation and the individuals who will conduct any interrogation or interview,
- The name of any person who will be present at any interrogation or interview,

- A statement describing any and all confidentiality requirements or admonishments,
- A statement indicating that the employee who is subject to an interrogation or interview may upon request, have a lawyer or a representative of his choosing present with the him during any phase of an interrogation or interview, provided the representative is not connected to or a subject of the same investigation.

1.4.4 All formal investigation should be initiated immediately and be completed within 60 days of assignment by the IG.

1.4.4.1 After providing sufficient justification, Division Heads may apply for an extension of the 60 day time limit from the IG.

1.4.5 In accordance with established and published guidelines the IG, each Division Head should, before conducting an investigation or assigning it to a designate, become familiar with the complaint and its allegations, assess its severity and level of complexity to investigate and act accordingly to conduct or manage the investigation.

1.4.5.1 The Division Head should ensure that appropriate supervision, investigative staff, and resources are assigned to the matter and that establish procedures and requisite due dates are assigned and monitored.

1.4.5.2 The individual assigned to investigate the complaint shall review and become familiar with the complaint, its allegations, related material, and its status and due dates. The investigation should be conducted in accordance with established and published guidelines of the IG.

1.4.5.3 The assigned investigator should document investigative findings in a final case report according to established and published guidelines of the IG and forward the report to the concerned Division Head for review.

REFERENCES

None

ATTACHMENTS

Standardized Complaint Form (DOC- 1064)

Jackie Crawford, Director

Date

CONFIDENTIAL

Yes

XX

No

**THIS PROCEDURE SUPERSEDES ALL PRIOR WRITTEN PROCEDURES ON
THIS SPECIFIC SUBJECT.**